



W.P.(MD)Nos.3419 of 2016 & 2177 of 2019

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.11.2022

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)Nos.3419 of 2016 & 2177 of 2019

W.P.(MD)Nos.3419 of 2016

The Management,
Tamil Nadu State Transport
Corporation (Madurai) Limited,
Madurai Region, Madurai – 625 016. ... Petitioner

vs.

1. The Presiding Officer,
Labour Court,
Madurai – 625 020.

2. A. Selvam ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of *Certiorari*, calling for the records on the file of the 1st respondent pertaining to the proceeding in I.D.No.34 of 2013 dated 30.06.2015 and quash the same.



WEB COPY

W.P.(MD)Nos.3419 of 2016 & 2177 of 2019

For Petitioner : Mr.A.Jeyaram
R-1 : Labour Court
For R-2 : Mr.S.Arunachalam

W.P.(MD)Nos. 2177 of 2019

A. Selvam

... Petitioner

Vs.

The Management,
Tamil Nadu State Transport
Corporation (Madurai) Limited,
Madurai Region, Madurai – 625 016.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of ***Certiorarified Mandamus***, after calling for the records from the Labour Court, Madurai, relating to the impugned award dated 30.06.2015 in I.D.No.34 of 2013 in so far as denying continuity of service, back wages, permanent status and other attendant benefits to the petitioner, quash the same and consequently to direct the respondent to reinstate him in service with permanent status, back wages and continuity of service and all other attendant benefits and award cost.

For Petitioner : Mr.S.Arunachalam
For Respondent : Mr.A.Jeyaram



W.P.(MD)Nos.3419 of 2016 & 2177 of 2019

WEB COPY

COMMON ORDER

W.P.(MD)Nos.3419 of 2016 is filed for issuing Writ of ***Certiorari***, to quash the impugned order passed by the 1st respondent in I.D.No.34 of 2013, dated 30.06.2015.

W.P.(MD)Nos. 2177 of 2019 is filed for issuing ***Writ of Certiorarified Mandamus***, to quash the award, dated 30.06.2015 in I.D.No.34 of 2013 and also sought for a consequential direction to the respondent to reinstate the petitioner back into service with permanent status, back wages and continuity of service and all other attendant benefits.

2. For the sake of convenience, the Management of Tamil Nadu Transport Corporation is referred as petitioner and the aggrieved person/A.Selvam is referred as the second respondent.



W.P.(MD)Nos.3419 of 2016 & 2177 of 2019

WEB COPY

3. This petitioner management used to engage the workers temporarily as and when required. The second respondent was engaged as a temporary worker. Any appointment to any post ought to be made only through the District Employment Exchange. Based on the prescribed qualification, personal interview will be conducted and after ascertaining minimum physical fitness, the candidates would be recruited. Initially appointment will be on probation basis on daily wages. On completion of 240 days, another order will be issued for making them as permanent employees. Since the petitioner transport corporation is carrying on a Public Passenger Transport service in the State, any interruption in the essential transport service will cause inconvenience to the public at large. Therefore, the transport persons have engaged temporary employees on daily wages basis. They are engaged by the Branch Manager themselves and they are paid daily wages on the days of their work. The employee and employer relationship exists only on the engagement and the relationship ended on the same day itself. The 2nd respondent had not worked for 240 days continuously.



W.P.(MD)Nos.3419 of 2016 & 2177 of 2019

WEB COPY

4. The petitioner management denied the contention of the 2nd respondent that he was initially paid daily wages of Rs.100/- and lastly Rs.125/-. Moreover, the petitioner submitted that the 2nd respondent was not sponsored by the Employment Exchange as well. Without taking facts into consideration, the 1st respondent Labour Court has passed the impugned order. Aggrieved over the same, the instant Writ Petition is filed.

5. The 2nd respondent relied on the petition that was filed before the Labour Court and submitted that eventhough the 2nd respondent was engaged as daily wages employee, he has completed 240 days and therefore, the writ petition has no merits and the same may be dismissed.

6. Heard on either side in both Writ Petitions. Perused the material documents available on record.



W.P.(MD)Nos.3419 of 2016 & 2177 of 2019

WEB COPY

7. The Labour Court has given a specific finding by taking the materials on record that the 2nd respondent was engaged for the months from 2/2009 to 4/2009, 6/2009, 8/2009 to 3/2010 and 8/2010. The 2nd respondent has produced a letter claiming the salary for the period from February 2009 to March 2010, under Ex.W.2 series. After perusing the records, the Labour Court held that the 2nd respondent had worked 241 ½ days for one year period of 2009 and specifically rendered a finding that the 2nd respondent has completely working 240 days. Therefore, the Labour Court has issued direction to reinstate the 2nd respondent on same position existed before, within three months, from the date of receipt of a copy of the order. The Labour Court has denied back wages and other benefits and also directed the petitioner/management to give preference to the 2nd respondent at the time of regular employment subject to the 2nd respondent possessing necessary qualifications.

8. On perusal of the order, there is no infirmity in the order passed by the Labour Court. Therefore, this Court is not inclined to interfere with the findings passed by the Labour Court.



W.P.(MD)Nos.3419 of 2016 & 2177 of 2019

WEB COPY

9. Accordingly, both these Writ Petitions are dismissed. The impugned order passed by the Labour Court, in I.D.No.34 of 2013, dated 30.06.2015, is hereby confirmed. No Costs.

Index : Yes / No
Internet : Yes
ksa

02.11.2022

To

The Presiding Officer,
Labour Court,
Madurai – 625 020.



WEB COPY



W.P.(MD)Nos.3419 of 2016 & 2177 of 2019

S.SRIMATHY, J

ksa

Common Order made in
W.P.(MD)Nos.3419 of 2016 &
2177 of 2019

02.11.2022